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Pro Se 14 (Rev. 09/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA

FILED

DAMON Oden

Plaintiff

(Write your full name. No more than one plaintiff may be named in a complaint.)

-v-

JIMMY KILGORY; Sheriff  
RON SMITH; Jail Administrator  
KEN FLOWERS, Dept Chief  
SGT. COXLEY

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all of the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here. Your complaint may be brought in this court only if one or more of the named defendants is located within this district.)

2017 MAY 31 P 12:11

U.S. DISTRICT COURT  
N.D. OF ALABAMACase No. \_\_\_\_\_  
(to be filled in by the Clerk's Office)

1:17-cv-00891-KOB-HGD

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS  
(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis*.

Mail the original complaint and the filing fee of \$400.00 or an Application to Proceed *In Forma Pauperis* to the Clerk of the United States District Court for the Northern District of Alabama, Room 140, Hugo L. Black U.S. Courthouse, 1729 5th Avenue North, Birmingham, Alabama 35203-2195.

**I. The Parties to this Complaint****A. The Plaintiff**

Provide the information below for the plaintiff named in the complaint.

Name

DAMON Oden E.All other names by which  
you have been known:

ID Number

75751

Current Institution

Talladega Co. Jail

Address

P.O. Box BTalladega

City

Alabama

State

35161

Zip Code

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Jimmy KilgoreJob or Title (*if known*)Sheriff

Shield Number

Employer

Talladega County Sheriff Dept.

Address

P.O. Box 996Talladega

City

Ala

State

35161

Zip Code



Individual Capacity



Official Capacity

Defendant No. 2

Name

Bon SmithJob or Title (*if known*)Jail Administrator

Shield Number

Employer

Talladega County Jail

Address

P.O. Box 996Talladega

City

Ala

State

35161

Zip Code



Individual Capacity



Official Capacity

## Defendant No. 3

Name Ken Flowers  
 Job or Title (if known) Dept. Chief  
 Shield Number \_\_\_\_\_  
 Employer Talladega County Jail  
 Address P.O. Box 996  
Talladega Alabama 35161  
City State Zip Code  
☒ Individual Capacity ☐ Official Capacity

## Defendant No. 4

Name Sgt. Cotner  
 Job or Title (if known) Jail 2<sup>nd</sup> Shift Commander  
 Shield Number \_\_\_\_\_  
 Employer Talladega County Jail  
 Address P.O. Box 996  
Talladega Ala 35161  
City State Zip Code  
☒ Individual Capacity ☐ Official Capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal law]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

## A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)  
☒ State or local officials (a § 1983 claim)

## B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities, secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

8<sup>th</sup> AND 14<sup>th</sup> Amendment, by Not Given Plaintiff An Opportunity To Fresh Air, And being Inflicted with Cruel & Unusual Punishment

- C. Plaintiffs suing under *Bivens* may only recover for violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

None Under Federal Officials Only State Officials,  
HAVE Violated The 8<sup>th</sup> And 14<sup>th</sup> Amendment.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

By Violating the spirit of the 8<sup>th</sup> And 14<sup>th</sup> Amendment  
While My being housed At Talladega County Jail.

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial Detainee  
☐ Civilly committed detainee  
☐ Immigration detainee  
☐ Convicted and sentenced state prisoner  
☐ Convicted and sentenced federal prisoner  
☐ Other \_\_\_\_\_  
(explain)

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Talladega County Jail on 5-3-17

C. What date and approximate time did the events giving rise to your claim(s) occur?

9:00 AM on 5-3-2017

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Since my incarceration Plaintiff has been violated by defendants  
of his above claims of the 8th and 14th amendments

## V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries in detail.

Mental anguish, unusual cruel punishment, stress, pain and  
suffering

## VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am requesting that this Court allow this Talledega County  
to show why they have violated Plaintiff 8th and 14th  
amendment with reasonable person if not then  
defendants each grant Plaintiff \$50,000 in pain and  
suffering from their cruel and unusual punishment.

**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Tuladega County Jail,

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☒ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

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**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Printed Name of Plaintiff

Damon Eugene Oden

Prison Identification #

75751

Prison Address

P.O. Box BSylacauga  
CityAL  
State35150  
Zip Code

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

5/26/2017

(Date)

Damon Eugene Oden

Signature of Plaintiff



THE SHERIFF OF THE TALLADEGA COUNTY JAIL AND THE JAIL STAFF AND ADMINISTRATION WHILE ACTING UNDER COLOR OF STATE LAW HAS WILLFULLY AND INTENTIONALLY VIOLATED AND DISREGARDED PLAINTIFF'S CONSTITUTIONAL RIGHTS UNDER EIGHT AND FOURTEENTH AMENDMENTS WHERE AS THE PLAINTIFF WAS SECURED AND PROTECTED WHILE BEING DETAINED IN RESTRAINT OF LIBERTY INTO CONFINEMENT

### CLAIM #1

THE DEFENDANTS NAMED HEREIN HAS WILLFULLY VIOLATED PLAINTIFF'S EIGHTH AMENDMENT RIGHTS TO FEDERAL CONSTITUTION SINCE PLAINTIFF BEING HELD INTO CONFINEMENT, PLAINTIFF HAS NOT BEEN TAKEN OUTSIDE TO RECEIVE FRESH AIR NOR SUN LIGHT WHAT SO EVER DEFENDANTS HAS INFLICTED CRUEL AND UNUSUAL PUNISHMENT UPON THE PLAINTIFF

### CLAIM #2

THE DEFENDANTS NAME, HEREIN HAS WILLFULLY VIOLATED PLAINTIFF'S FOURTEENTH AMENDMENT TO FEDERAL CONSTITUTION SINCE PLAINTIFF, BEING HELD INTO CONFINEMENT THE DEFENDANTS, HAS NOT PROVIDED OR AFFORDED THE PLAINTIFF OPPORTUNITY OR ACCESS, TO A REASONABLY ADEQUATE, LAW LIBRARY, FOR PREPARATION OF LEGAL ACTIONS.

### CLAIM #3

THE DEFENDANTS, NAME HEREIN HAS WILLFULLY VIOLATED PLAINTIFF'S FOURTEENTH AMENDMENT DUE PROCESS CLAUSE, THE DEFENDANT HAS SHOWN DELIBERATE INDIFFERENCE. THE DEFENDANTS, HAS NOT PROTECTED PLAINTIFF UNDER, THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT FROM INVIDIOUS DISCRIMINATION. THE FEMALE INMATES ARE ALLOWED



<sup>#</sup>  
Claim 3

To go outside Daily, While the male Inmates, being denied Daily this Federal, Constitution Right by the Defendants wich is their policy.

Claim #4

The defendants Here in Joann Lnier The Mail Personnel And the Jail Administrator has Violated the plaintiff first Amendment Constitutional Rights of Due Process Clause, The Defendant is opening the plaintiff Legal mail with out Plaintiff being present. The legal mail is being served Late at night upon the Plaintiff, Defendant is not keeping Record that legal mail are being distributed This mail Procedure is inadequate And improper and unconstitutional and its in a Violation of The 7<sup>st</sup> Amendment.

This is an ongoing unconstitutional procedures the defendants Here in, has Inflicted upon the plaintiff while Acting under the color of state law.

Executed 5 26 2017

X Darran Eugene Allen